

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Lauren Kerstein	Team: Squad #7	CCRB Case #: 201501844	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 03/10/2015 3:50 PM	Location of Incident: 118th Avenue and 152nd Street	Precinct: 113	18 Mo. SOL 9/10/2016	EO SOL 9/10/2016	
Date/Time CV Reported Mon, 03/16/2015 10:20 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 03/16/2015 10:20 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Matthew Lewis	25652	941054	113 PCT
2. DTS Thomas Reo	5817	946153	113 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Daniel Pelan	05055	952099	113 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Matthew Lewis	Discourtesy: PO Matthew Lewis spoke discourteously to § 87(2)(b)	
B.DTS Thomas Reo	Force: Det. Thomas Reo used physical force against § 87(2)(b)	

Case Summary

On March 10, 2015, at approximately 3:50 p.m., Det. Thomas Reo, PO Daniel Pelan and PO Matthew Lewis stopped § 87(2)(b)'s vehicle at the intersection of 118th Avenue and 152nd Street in Queens. PO Lewis approached the driver's side of § 87(2)(b)'s vehicle and allegedly told § 87(2)(b) to give him his "fucking" license twice (**Allegation A**). After § 87(2)(b) refused multiple requests to provide his license, PO Lewis asked § 87(2)(b) to exit his vehicle.

§ 87(2)(b) refused to exit, so PO Lewis opened § 87(2)(b)'s door and pulled him out of his vehicle. While trying to handcuff him, § 87(2)(b) alleged that Det. Reo punched him three times in the ribs (**Allegation B**). Throughout the course of the incident, § 87(2)(b) alleged that PO Lewis stated that they beat him up because they had a "fucking badge" and could "fucking" do that. PO Lewis went on to say that § 87(2)(b) talked "too fucking much" and should learn to "mind his fucking business." § 87(2)(b) also alleged that PO Lewis told him to "Shut the fuck up" (**within Allegation A**). § 87(2)(b) was subsequently arrested.

On § 87(2)(b), § 87(2)(b) went to § 87(2)(b) and received an MRI on his left shoulder. Medical personnel found that § 87(2)(b)'s superior labrum in his left shoulder was torn. § 87(2)(b) originally injured his left shoulder, for which he had surgery on, in § 87(2)(b).

§ 87(2)(g)

Attempts to Contact Civilians

- § 87(2)(b) had four passengers in his vehicle at the time of this incident. § 87(2)(b) only knew the name of two of the passengers, § 87(2)(b) and someone he knew only as "§ 87(2)(b) § 87(2)(b)" did not have contact information for either of the individuals.
- A Lexis Nexis search was conducted which yielded a phone number, residential address and e-mail address. One call was placed to the phone number recovered which was out of service and one e-mail was sent which came back as undeliverable. Three letters were sent to § 87(2)(b) which have not returned to the CCRB as undeliverable.
- § 87(2)(g)

Mediation, Civil and Criminal Histories

On § 87(2)(b), § 87(2)(b) filed a Notice of Claim and is seeking an unspecified monetary amount in damages (B.R. 03). This complaint was unsuitable for mediation. § 87(2)(b)

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by or involving § 87(2)(b) (B.R. 02).
- PO Lewis has been a member of the service for nine years and has been the subject of 53 allegations from 20 previous complaints, seven of which have been substantiated. The relevant portions of those complaints have been summarized below (B.R. 01):
 - In CCRB# 201016562, it was alleged that PO Lewis asked a civilian what the "fuck" he thought he was doing. The complaint was closed as complainant uncooperative.

- In CCRB# 201105656, a civilian alleged that PO Lewis told them to get the “fuck” back in their vehicle. The allegation was closed as unsubstantiated.
- In CCRB# 201113364, it was alleged that PO Lewis and two other officers repeatedly told a civilian to “Shut the fuck up” and called her “fuck face.” The allegation was closed as unsubstantiated.
- In CCRB# 201201907, it was alleged that PO Lewis called a civilian a “fucker” and told him, “I’ve got you now fucker!” § 87(2)(g) therefore, the allegation was closed as unfounded.
- In CCRB# 201202903, a civilian alleged PO Lewis asked them if they were a “fucking” lawyer. The allegation was closed as unsubstantiated.
- In CCRB# 201305464, a civilian alleged that PO Lewis was one of two officers that told him to open his “fucking” door. The allegation was closed as complainant uncooperative.
- In CCRB# 201305697, it was alleged that PO Lewis was in a group of officers that said the following, “What the fuck!” “Put your fucking hands up!” “Don’t fucking move,” “Fuck you!” “Get the fuck down,” and “Shut the fuck up.” The allegation was closed as unsubstantiated.
- In CCRB# 201309995, a civilian alleged that PO Lewis told him that he should have “Shut the fuck up” and to shut his “fucking” mouth. § 87(2)(g) Therefore, the allegation was closed as unfounded.
- In CCRB# 201401420, PO Lewis is heard telling a civilian to “get on the fucking ground” in video footage. The Board substantiated the allegation and recommended charges. The complaint is with the Administrative Prosecution Unit and the trial is pending.
- In CCRB# 201402170, a civilian alleged that PO Lewis used the expletive “fuck” towards him. The allegation was closed as unsubstantiated.
- In CCRB# 201402594, it was alleged that PO Lewis said, “This motherfucker, he’s holding the fucking door. Just open the fucking door.”
- Det. Reo has been a member of the service for seven years and has been the subject of 46 allegations from 17 prior complaints, none of which have been substantiated. § 87(2)(g)

Findings and Recommendations

Explanation of Subject Officer Identification

- § 87(2)(b) s physical description of PO Lewis and Det. Reo were accurate and both officers acknowledged interacting with § 87(2)(b) Although § 87(2)(b) alleged that PO Lewis threw him against his vehicle, Det. Reo admitted to doing so. § 87(2)(g)

Allegations not pleaded

- § 87(2)(g)

Allegation A: Discourtesy – PO Matthew Lewis spoke discourteously to § 87(2)(b)

§ 87(2)(b) alleged that PO Lewis asked him to provide his “fucking” license two times at the very beginning of the interaction. Then, as the officers were transporting him to the 113th Precinct, § 87(2)(b) asked PO Lewis why he had beat him up. PO Lewis allegedly responded that it was because he had a “fucking badge” and could “fucking” do that. PO Lewis allegedly went on to say that § 87(2)(b) “talked too fucking much” and should learn to “mind his fucking business.” § 87(2)(b) also alleged that PO Lewis told him to “Shut the fuck up.” (See § 87(2)(b)’s CCRB Statement).

In his Notice of Claim, § 87(2)(b) only alleged that PO Lewis told him to give him his “fucking” license (B.R. 03). It did not list any of the other discourtesies § 87(2)(b) alleged in his CCRB statement.

PO Lewis denied using the curse words “fuck” or “fucking” during his interaction with § 87(2)(b). Det. Reo and PO Pelan also denied that PO Lewis used profanity in his § 87(2)(b).

Although PO Lewis has been accused of using similar expletives in 11 of his previous CCRB complaints, only one was substantiated while two were unfounded § 87(2)(g).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation B: Force – Det. Thomas Reo used physical force against § 87(2)(b)

§ 87(2)(b) alleged that Det. Reo threw him against the side and back of his vehicle multiple times and punched him in the ribs three times while trying to get his arms behind his back. § 87(2)(b) acknowledged pulling at least one of his arms away from Det. Reo. § 87(2)(b) stated that he injured his left shoulder from having his arms behind his back (See § 87(2)(b)’s CCRB Statement).

In his Notice of Claim, § 87(2)(b) corroborated this account of the force allegations but denied resisting arrest. He also alleged that being slammed against the vehicle, not the position of his arms behind his back, was what caused the injury to his left shoulder (B.R. 03).

According to medical records provided by § 87(2)(b) he was diagnosed with a torn superior labrum on his left shoulder which he originally injured and had surgery on in 2014.

On the 113th Precinct command log, it lists § 87(2)(b)’s physical condition as apparently normal (NYPD Documents 01).

Det. Reo stated that after § 87(2)(b) pulled his arm away, he hooked his arm through § 87(2)(b)’s and then used his body weight to push § 87(2)(b)’s chest against his vehicle to get his arm behind his back (See Det. Reo’s CCRB Statement). Det. Reo denied punching § 87(2)(b). PO Lewis, who assisted in handcuffing § 87(2)(b), acknowledged that during the course of the physical struggle, himself, Det. Reo and § 87(2)(b) were close to the car and § 87(2)(b)’s body may have inadvertently made contact with the car, but he denied that § 87(2)(b) was ever intentionally thrown against his vehicle. PO Pelan denied seeing § 87(2)(b) being thrown against his vehicle and he and PO Lewis denied seeing Det. Reo punch § 87(2)(b).

Officers are required to use the minimum necessary force when placing an individual in handcuffs. NYPD Patrol Guide, Section 203-11 (B.R. 05).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g) [Redacted]
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§ 87(2)(b) [Redacted]
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[Redacted]

Pod:

Investigator: _____
Signature Print Date

Pod Leader: _____
Title/Signature Print Date

Attorney: _____
Title/Signature Print Date